

NAWCWDINST 12351.1
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NAWCWD INSTRUCTION 12351.1

From: Commander, Naval Air Warfare Center Weapons Division

Subj: REDUCTION IN FORCE OF DEMONSTRATION PROJECT EMPLOYEES

Ref: (a) FPM Supplement 351-1
(b) DODINST 1400.20-1-M
(c) SECNAVINST 12351.5D
(d) OCPMINST 12351.1A
(e) NAVAIRINST 12351.1B
(f) Federal Register, Vol. 45, No. 77
(g) Federal Register, Vol. 47, No. 186

1. Purpose. To state policies, establish procedures, and delineate management's responsibilities for reduction in force (RIF) of Demonstration Project employees within the Naval Air Warfare Center Weapons Division (NAWCWD).
2. Cancellation. NAVWPNCENINST 12351.2.
3. General Information. A RIF could become necessary for various reasons, among which are lack of work, shortage of funds, reorganization, an individual's exercise of reemployment rights or restoration rights, or reclassification due to erosion of duties when it occurs within 180 days of a formally announced RIF in the competitive area. When a RIF is deemed necessary, employees can be released from their competitive levels by separation, demotion, furlough for more than 30 days, or reassignment. These actions, when initiated, must comply with the RIF regulations and policies specified in references (a) through (g) and in this instruction. The need to apply RIF procedures does not suspend management's authority/responsibility to remove, demote, reassign, or relocate employees by appropriate means before determining which positions to eliminate.
4. Policy. The NAWCWD policy is to accomplish required civilian personnel reduction through attrition whenever possible. Involuntary separation or furlough of employees will occur only when other prudent actions, such as hiring freezes and limitations on the use of overtime, cannot accomplish the required results. To maintain this RIF avoidance policy, all avenues of authority are considered.
5. Definitions
 - a. Annual Performance Rating of Record. An official performance rating, under a

performance appraisal system approved by the Office of Personnel Management, which was signed by the reviewing official and entered into the Defense Civilian Personnel Data System (DCPDS) (the official personnel database used by the Department of the Navy).

b. Assignment Right. The right of an employee to be assigned (by bump or retreat) in the second round of competition to a position in a different competitive level held by another employee with lower standing on a retention register.

c. Bump. The assignment of an employee to a position held by another employee in a lower incentive pay group or in a lower tenure group or tenure subgroup within the same incentive pay group.

d. Commuting Area. A geographic area in which people live and can reasonably be expected to travel back and forth daily to work.

e. Competitive Area. The organizational and geographic boundaries in which employees compete in a reduction in force.

f. Competitive Level. A group of positions in the same Demonstration Project level (pay band) and classification series that have similar duties and other requirements.

g. Furlough. The placement of an employee in a temporary non-duty and non-pay status for more than 30 consecutive calendar days, or more than 22 workdays if done on a non-continuous basis, but not more than one year when the action is based on one of the RIF reasons and is not according to pre-established conditions of employment.

h. Incentive Pay Group. Employees grouped by performance ratings for retention purposes. The incentive pay group is the primary displacement tool in a RIF action.

i. RIF Notice. An official written communication provided to an individual employee announcing that he or she is affected by a RIF action.

j. Retention Register. A list of competing employees within a competitive level.

k. Retention Standing. An employee's relative standing on a retention register.

l. Retreat. The assignment of an employee to a position in a different competitive level held by another employee with lower retention standing in any incentive pay group and at a Demonstration Project level from or through which the employee was promoted.

m. Rounds of Competition. The different stages of competing for retention. In the first round of competition, employees compete to stay in the competitive level. In the second round of competition, employees compete for assignment to positions in different competitive levels.

n. Undue Interruption. A degree of interruption that would prevent the completion of required work within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. For example, a work program normally would be unduly interrupted if an employee needed more than 90 days after the RIF to successfully perform the critical elements of a position. The concept of undue interruption applies to any bumping and retreating that would occur during a RIF.

6. RIF Procedures. The following procedures govern RIF of Demonstration Project employees throughout NAWCWD:

a. Competition in RIF. Employees compete for retention within their competitive levels during the first round of RIF competition. When positions are abolished, employees are released from their competitive levels in inverse order of their retention standing beginning with the employee having the lowest standing. If an employee is reached for release from a competitive level during round one, he or she could have a right to be assigned to another position. If so, the employee must be offered that position or an equivalent one. Assignment rights, called bump and retreat, constitute the second round of competition when employees compete for jobs in other competitive levels. Round one and round two competition are discussed further in paragraphs 6f and 6g below.

b. Competitive Areas. For all employees, competition is limited to each established competitive area. Competitive area is defined as each major occupational group under NAWCWD within each commuting area. These occupational groups are: scientists and engineers, technicians, technical specialists, administrative personnel, and general personnel.

c. Competitive Levels

(1) Separate competitive levels are established for all positions having the same:

- (a) Service (competitive or excepted).
- (b) Major occupational group (scientists and engineers, technicians, technical specialists, administrative personnel, or general personnel).
- (c) Work schedule (full-time, part-time, intermittent, seasonal, or on-call).
- (d) Supervisory or non-supervisory status.
- (e) Trainee status (see paragraph 6c(2) below).
- (f) Title, series, level, and primary specialty area code and functional code, as appropriate.

(2) Separate competitive levels are established for positions filled by employees in formally-designated trainee or developmental programs in the competitive service. Those

programs formally established at NAWCWD are: Junior Professional Program, Upward Mobility Program, and Pre-Journey Program.

d. Retention Registers. Competing employees (within a competitive level) are listed on a retention register in the following order: by incentive pay group; within each incentive pay group, by tenure group; within each tenure group, by veteran's preference subgroup; and within each subgroup, by years of service (the employee with the earliest date is entered first). See paragraph 6e below for more information regarding incentive pay groups.

e. Performance Appraisal Credit

(1) For retention register purposes, the three most recent annual performance ratings of record are used for establishing incentive pay groups. To provide adequate time to properly determine employee retention standing, the cutoff date for use of new ratings of record is set at 30 calendar days before the date of issue of RIF notices. Employees will receive performance credit for the three most recent annual ratings received during the 4-year period before the cutoff date. If an employee has not received three actual annual performance ratings during the preceding 4-year period, credit is given for up to three presumptive ratings of fully successful (level 3) to bring the total number of ratings to three.

(2) Three incentive pay groups are established. Highly successful performance ratings (levels 1 and 2) are assigned a value of 1; fully successful performance ratings (level 3) are assigned a value of 2; and less than fully successful performance ratings (levels 4 and 5) are assigned a value of 3. The group "H" (highly successful) incentive pay group includes employees whose three most recent annual performance ratings average within the range of 1.0 to 1.33; the group "F" (fully successful) incentive pay group includes employees whose three most recent annual performance ratings average about 1.33 but no higher than 2.0; and the group "L" (less than fully successful) incentive pay group includes employees whose three most recent annual performance ratings average above 2.0. Within each competitive level, employees in incentive pay group "H" are placed at the top of the retention register in standard tenure, veteran's preference, and length of service order; employees in incentive pay group "F" are placed at the middle of the retention register in standard order; and employees in incentive pay group "L" are placed at the bottom of the retention register, in standard order, and are the first to be released from the competitive level.

(3) Employees whose positions are brought into the Demonstration Project are credited with Demonstration Project ratings that are equivalent to their non-Demonstration Project ratings. Employees accepting positions covered by the Demonstration Project are credited with presumptive fully successful ratings.

f. Release from Competitive Level (Round One). When an employee's position is abolished, the employee is not automatically released from his or her competitive level. If a competing employee must be released, an employee in an abolished position has a right to one of the other positions in the level as long as he or she is not the lowest standing employee. If the employee in the abolished position has the lowest standing, he or she is the one released from the

competitive level. When employees in the same retention subgroup have identical service dates and are tied for release, the following tie-breaking procedures are used: the employee with the higher performance rating value is retained. If a second tie-breaker is required, the employee with the longest service within the competitive area is retained. As a third tie-breaker, the employee with the greater time in level is retained. If a further tie-breaker is required, a lottery system is established as follows: a single-digit, computer-generated random number between 0 and 9 is compared against the last digit of the social security number of each of the employees involved in the tie. If the last digit of the social security number is the same for two or more tied employees, the random number is compared with the second to the last number of the social security number. The employee with the same number as the random number will have the higher retention standing. If none of the tied employees has the same number as the random number, then the last digit (or the second to the last digit, as necessary) of the social security number is compared against the number which follows the random number (e.g., if the random number is 3, the number which follows is 4; if the random number is 9, the number which follows is 0). If there is still no match, the following number is used. This process will continue until there is a match. The employee for whom there is a match will always have the higher retention standing.

g. Assignment Rights (Round Two). This is the right of an employee to be assigned, by bump or retreat, in the second round of competition to a position in a different competitive level held by another employee with lower standing on a retention register. Employees in tenure group III have no assignment rights.

(1) Bump Rights. Bumping is an employee's right of assignment to a position for which the employee qualifies and which is occupied by an employee in a lower incentive pay group or in a lower tenure group or tenure subgroup within the same incentive pay group, in a different competitive level in the same competitive area. The occupied position must be no more than one Demonstration Project level below the position from which the employee is released.

(2) Retreat Rights. Retreating is an employee's right of assignment to a position formerly held, or essentially identical to one previously held, when the position is occupied by a lower standing employee (lower tenure group, lower tenure subgroup, or later service computation date) in any incentive pay group and at a Demonstration Project level from or through which the employee was promoted. The occupied position must be in a different competitive level in the same competitive area and must be no more than one Demonstration Project level below the position from which the employee is released. As indicated, employees in the lower incentive pay groups can compete for lower level positions occupied by employees in the higher incentive pay groups. This special retreat provision recognizes that lower performing employees have reasonable potential for higher quality performance in a lower level position that they formerly held or were promoted through.

(3) Assignment to a Trainee or Developmental Position. Formally-designated trainee or developmental positions require special consideration when making RIF placements. In determining whether a released employee has assignment right to such a position, a decision must be made with regard to whether the offer would result in undue interruption. To be

considered qualified for a trainee or developmental position when undue interruption is not a consideration, an employee must meet all of the conditions required for selection and entry into the program. This means that a person who completed a course of training or development, or who is otherwise fully trained, cannot bump or retreat into the program because he or she no longer meets the conditions for entry into the program. Trainees, for RIF purposes, are those in positions in a formally-designated trainee or developmental program that is:

(a) Designed to meet management's needs and requirements for the development of skilled personnel.

(b) Formally designated with its provisions announced to all employees and supervisors.

(c) Developmental by design, offering planned growth in duties and responsibilities, and providing advancement in recognized lines of career progression.

(d) Fully implemented, with participants chosen through standard selection procedures.

h. Notice Period. Employees will receive written notice at least 120 calendar days before the effective date of the RIF action if the RIF affects 50 or more employees. Employees will receive written notice at least 60 calendar days before the effective date of the RIF action if the RIF affects less than 50 employees.

i. Reconsideration Requests. An employee furloughed for more than 30 calendar days, separated, or demoted by a RIF action can request reconsideration beginning with the day after the effective date of the action but not later than 20 calendar days after the effective date. An employee reassigned to another position cannot request reconsideration. Employees will forward written requests for reconsideration of RIF actions to their personnel management advisor. The request is initially reviewed by the Human Resources Department official designated as the final authority on RIF processes. If, after this review, the dispute is not resolved, the request is forwarded to the equivalent personnel specialist at the Naval Command, Control and Ocean Surveillance Center, Research, Development, Test and Evaluation Division, San Diego, California (the sister Navy laboratory approved in the same Demonstration Project), for final review and decision. Demonstration Project employees have no Merit System Protection Board appeal rights.

7. Responsibilities

a. Managers/Supervisors. Managers and supervisors are responsible for:

(1) Identifying the positions to be abolished.

(2) Forwarding lists of the positions to be abolished through the chain of command as appropriate.

(3) Informing their employees of the reason(s) for the RIF and its impact.

(4) Delivering, directly to the employee, the notice of impending furlough, demotion, or separation due to RIF. If unable to be delivered in person, notices are sent by certified mail.

b. Human Resources Department. The Human Resources Department, Code 730000D, is responsible for:

(1) Advising management of the proper use of RIF.

(2) Assisting in planning the RIF and interpreting regulations.

(3) Maintaining retention registers and other records for inspection purposes.

(4) Determining RIF rights of affected employees.

(5) Conducting the RIF according to pertinent regulations and policies.

(6) Preparing the appropriate notices.

(7) Providing outplacement assistance for employees who are being separated.

(8) Counseling employees on their rights, benefits, and the possibility of continued or future federal employment.

8. Directive Responsibility. The Head, Human Resources Department, Code 730000D, is responsible for keeping this instruction current.

/s/

M. J. SWANEY